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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,736	12/21/2001	Fung-Jou Chen	KCX-484 (17155)	3665
22827	7590	11/16/2005	EXAMINER	
DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449			STEPHENS, JACQUELINE F	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/036,736	Applicant(s) CHEN ET AL.	
	Examiner Jacqueline F. Stephens	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 67-127 and 129-132 is/are pending in the application.
- 4a) Of the above claim(s) 78, 87, 88, 98-100, 111 and 122-126 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 67-77, 79-86, 89-97, 101-110, 112-121, 127 and 129-132 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 8/22/05 have been fully considered but they are not persuasive. Applicant repeats the argument that Chen teaches a liquid impervious backsheet that prevents leakage and maintains the integrity of the product and thus, Chen teaches away from an absorbent sponge-like product comprising an outer cover that allows water to pass therethrough. However, Chen teaches multi-ply and laminate structures, which include a series of resilient hydrophilic baseheet layers and dual-zoned absorbent webs in superposed relation (col. 36, line 64 through col. 37, line 16). The examiner interprets an outer layer to be an outer cover as it is outside of the absorbent layers. Chen additionally teaches embodiments, such as hand towels, where both sides of the article allow water to pass through (col. 37, lines 12-40). In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "an absorbent core, page 14, paragraph 2 of arguments) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5, 67- 71, 73, 75-77, 79-85, 92-96, 97, 114-117, 120, 121, 127, 129-132 are rejected under 35 U.S.C. 102(b) as being anticipated Chen et al. USPN 5990377.

As to claim 1, 67, 114, 120, 121, and 127, 129-132, see Abstract; col. 1, lines 20-32; col. 2, line 59 through col. 3, line 6; col. 7, lines 39-59; col. 8, lines 46-61; col. 36, line 64 through col. 37, line 16; Figures 1-3.

As to claims 3 and 69, see col. 9, lines 49-57.

As to claims 4 and 70, see Figure 1 and col. 3, lines 37-45.

As to claims 5 and 71, see col. 5, lines 5-15.

As to claims 7 and 73, see Figure 14.

As to claim 75, see col. 5, lines 44-48.

As to claim 76, see col. 29, lines 8-26.

As to claim 77 and 117, see co. 12, lines 24-29.

As to claim 79-81, 92, 93, 115, and 116 see Figure 1 and col. 3, line 45 through col. 4, line 48.

As to claims 82, 95, 96, and 97 see col. 4, lines 13-18 and col. 33-col. 34.

As to claim 83, see Figure 6.

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As to claim 84, see col. 43, lines 5-10.

As to claim 85, see col. 21, line 65 through col. 22, line 8.

As to claim 94, see col. 34, line 47 through col. 35, line 24, where Chen discloses a latex-free embodiment.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 6, 8, 68, 72, 74, 86, 89, 90, 91, 101-113, 118, 119 rejected under 35 U.S.C. 103(a) as being unpatentable over Chen USPN 5990377.

As to claims 2, 6, 68, 72, 103, and 118, Chen describes an uncreped three dimensional through dried cellulosic web of bulk enhancing fibers. Chen does not specifically describe the exact number of layers of the multi-ply structure. However, Chen discloses a multi-layer structure is desired allowing better control of physic properties by tailoring the material composition of each layer (col. 3 ,lines 55-62). It would have been obvious to one of ordinary skill in the art to use the claimed number of plies and folded stacks as a mere modification of a specific size and shape does not patentably distinguish the claimed invention from the prior art.

As to claims 8, 74, 86, 89, 90, 91, 101, 102, and 104-113, Chen discloses the present invention substantially as claimed. However, Chen does not disclose the claimed absorbent capacity. Chen describes the basis weight, density and materials.

Regarding the absorbent capacity and the examiner's interpretation of the test and performance characteristics of the instant apparatus claims, when the structure recited in the reference is substantially identical to that of the claims of the instant invention, claimed properties or functions are presumed to be inherent (MPEP 2112-2112.01). A *prima facie* case of either anticipation or obviousness has been established when the reference discloses all the limitations of a claim except a property or function and the examiner can not determine whether or not the reference inherently possesses properties which anticipate or render obvious the claimed invention but has basis for shifting the burden of proof as in *In re Fitzgerald*, 619 F.2d 67, 70 205 USPQ 594, 596 (CCPA 1980).

Conclusion

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline F. Stephens whose telephone number is (571) 272-4937. The examiner can normally be reached on Monday-Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jacqueline F Stephens
Examiner
Art Unit 3761

November 11, 2005